

MINUTES OF THE 153RD MEETING OF THE
WATER MANAGEMENT BOARD
FLOYD MATTHEW TRAINING CENTER
523 EAST CAPITOL AVENUE
PIERRE, SOUTH DAKOTA

MARCH 11-12, 2008

CALL TO ORDER: Chairman Jim Hutmacher called the meeting to order at 10:00 a.m. CDT on March 11, 2008. A quorum was present.

The following were present at the meeting:

Board Members: Jim Hutmacher, Francis Brink, Rodney Freeman, Bernita Loucks, and Tim Bjork. Everett Hoyt and Leo Holzbauer were absent.

Department of Environment and Natural Resources (DENR): Steven Pirner, secretary of DENR; Tim Tollefsrud, division director; Garland Erbele, chief engineer; Eric Gronlund, Jim Goodman, Genny McMath, Karen Schlaak, Tim Schaal, Mike DeFea, Mark Rath, Ron Duvall, Ken Buhler, Aaron Tieman, Mark Costello, and Gail Jacobson, Water Rights Program, Bill Markley, Gary Haag, John Foster, and Tom Brandner, Groundwater Quality Program; Mike Cepak and Roberta Fivecoate, Minerals and Mining Program.

Attorney General's Office: Diane Best and Jeff Hallem.

Legislative Oversight Committee: Tom Hanson, Huron, SD.

Application No. 6886-3: Jerome Poeschl, Yankton, SD.

Application No. 6883-3: Lloyd Terrill, Clark, SD.

Application No. 6894-3: Scott Helmer, Garretson, SD; Pat Emmons, Dell Rapids, SD; and Kent Boadwine, Sioux Falls, SD.

Findings of Fact, Conclusions of Law and Final Decision: Reed Bixler and Greg Bixler, Hitchcock, SD.

Application No. 6908-3: Margo Northrup and John Brown, Pierre, SD; Harlan Aman, Lester Aman, Dale Mohr, Allen Hieb, and DeLoris Hieb, Hosmer, SD; Thomas Tobin, Raymond Graff, Aberdeen, SD.

Underground Injection Control Class III Wells Rules: George Honeywell, Lower Brule, SD; Charmaine White Face, Bruce Ellison, Corey Foreman, and John Loucks, Rapid City, SD; Mark Hollenbeck, Edgemont, SD; and Joe Kafka, Pierre, SD.

APPROVE DECEMBER 5-6, 2007, BOARD MINUTES: Motion by Freeman, seconded by Bjork, to approve the minutes from the December 5-6, 2007, Water Management Board meeting. Motion carried.

MAY MEETING: The next Water Management Board meeting is May 7 and 8, 2008, at the Matthew Training Center, 523 E. Capitol, Pierre.

STATUS AND REVIEW OF WATER RIGHTS LITIGATION: Jeff Hallem had nothing to report.

ADMINISTER OATH TO DENR STAFF: Chairman Hutmacher administered the oath to DENR staff who intended to testify during the meeting.

LEGISLATIVE UPDATE: DENR Secretary Steve Pirner presented an update on 2008 legislation.

CONSIDER VIOLATION FOR FAILURE TO SUBMIT ANNUAL IRRIGATION QUESTIONNAIRE: Genny McMath provided the board with her report on irrigation questionnaire violations.

On October 29, 2007, the Water Rights Program mailed 3,040 irrigation questionnaires by First Class Mail. The permit holders were given until December 3, 2007, to return the forms.

On January 18, 2008, 205 notices (involving 326 permits) were mailed to those irrigators who had not returned their irrigation questionnaires. All of the notices were sent by "signature confirmation requested."

The January 18th notice advised the permit holders that the board could take one or more of the following actions pursuant to SDCL 46-1-12 and SDCL 46-1-14:

- The permit(s) could be suspended for:
 1. A period of up to one year for the first violation; or
 2. A period of up to three years for the second violation, which includes one previous violation.
- The permit(s) could be canceled for three violations, which includes at least two previous suspensions;
- The permit(s) could be amended to include the mandatory irrigation questionnaire qualification;
- Postpone any action or take no action.

The Water Rights Program recommended that the board take the following action for permits with irrigation questionnaires not received by March 11, 2008:

Suspend the following permits/rights for one year (effective April 11, 2008)

1714-2	Melvin E. Brassfield
2063-2	Melvin E. Brassfield
400-2	Melvin E. Brassfield

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401-2 Melvin E. Bassfield

5600-3 Castlewood Community Golf (received prior to April 11, 2008; no suspension occurred)

407-2 Miles DeJong (received prior to April 11, 2008; no suspension occurred)
408-2 Miles DeJong (received prior to April 11, 2008; no suspension occurred)
409-2 Miles DeJong (received prior to April 11, 2008; no suspension occurred)

1755-1 City of Eagle Butte

6792-3 Eagle Venture (received prior to April 11, 2008; no suspension occurred)
6793-3 Eagle Venture (received prior to April 11, 2008; no suspension occurred)

2826-3 Joseph R. Edelen, Jr. (received prior to April 11, 2008; no suspension occurred)
3109-3 Joseph R. Edelen, Jr. (received prior to April 11, 2008; no suspension occurred)

5341-3 John Hartemink (received prior to April 11, 2008; no suspension occurred)
5820-3 John Hartemink (received prior to April 11, 2008; no suspension occurred)

5777-3 Gerald A. Person (received prior to April 11, 2008; no suspension occurred)

2106-2 Stuart Rice (received prior to April 11, 2008; no suspension occurred)

6664-3 White Rock Colony

Suspend the following permits/rights for three years (effective April 11, 2008)

3791-3 Paul R. Bremmon (received prior to April 11, 2008; no suspension occurred)

402-1 Calvin & Jana Meyers

Amend the following to add the Irrigation Questionnaire Qualification:

773-1 James G. & Brenda A. Beauchene

2300-3 James E. Dailey

452-3 Harold Fornia

3395-3 Todd Grohs

1529-3 Lloyd L. Meyer

2954-3 Lane Tekrony

Motion by Freeman, seconded by Brink, to follow the recommendations for suspension and amendment of the permits/rights. If the irrigator sends in the questionnaire prior to April 11, 2008, no suspension will occur. Motion carried.

APPOINTMENT OF RAPID VALLEY WATER MASTER: Aaron Tieman reported that in the past the Water Management Board has appointed Kevin Ham as the Rapid Valley water master. The Rapid Valley Conservancy District has requested that Mr. Ham be appointed water master for the 2008 irrigation season.

Motion by Loucks, seconded by Bjork, to appoint Kevin Ham as the Rapid Valley water master for the 2008 irrigation season. Motion carried.

SEVEN YEAR REVIEW OF FUTURE USE PERMITS: All future use permits are required to be reviewed by the Water Management Board every seven years for anticipated development and future need. Eric Gronlund reported that three future use permits were scheduled for review: No. 1508-2 – South Central Water Development District for 45,000 AF, No. 5094-3 – Sioux Rural Water System for 390 AF, and No. 6237-3 – City of Yankton for 1,900 AF. The permit holders have requested retention of their permits.

The future use reviews were public noticed in the local newspapers. None of the future use permits scheduled for review were opposed.

Motion by Brink, seconded by Freeman, to allow the three future use permits to remain in effect for the amounts requested. Motion carried.

NEW WATER PERMIT APPLICATIONS: The pertinent qualifications attached to approved water permit applications throughout the hearings are listed below:

Well Interference Qualification

The well(s) approved under this permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

Well Construction Rule Qualification No. 1

The well(s) authorized by Permit No. _____ shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.

Well Construction Rule Qualification No. 2

The well(s) authorized by Permit No. _____ shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

Irrigation Water Use Questionnaire Qualification

This permit is approved subject to the irrigation water use questionnaire being submitted each year.

Low Flow Qualification

Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

UNOPPOSED NEW WATER PERMITS ISSUED BY THE CHIEF ENGINEER WITHOUT A HEARING BEFORE THE BOARD: See attachment.

WATER PERMIT APPLICATION NO. 6886-3, JEROME POESCHL: Jim Goodman presented his report on the application.

The application proposes to appropriate 1.78 cfs (800 gpm) from one well approximately 110 feet deep to irrigate 134 acres in Clay County.

The Lower James Missouri is a buried outwash (sand and gravel) that is under predominantly water table conditions in this area. The aquifer underlies 5,400 acres and contains an estimated 81,000 acre-feet of recoverable water in storage in Clay County. The aquifer extends into Yankton County to the west and blends into the much larger Missouri Elk Point aquifer just to the south. For all practical purposes the two aquifers could be considered the same in Clay County. Ground water movement is from northwest to southeast in the area of this application.

Mr. Goodman noted that the Water Rights Program monitors observation well CL-80A that is located about four miles southeast of this application. Water level records for this observation well go back in time to 1958. Water level records for this well show good response to climatic conditions that is rising water levels during wet periods (recharge) and gradually declining water levels during dry years. The water level record indicates the aquifer is capable of sustaining additional withdrawals. A hydrograph for this observation well is included with Mr. Goodman's report.

Mr. Goodman concluded that water is available from the Lower James Missouri aquifer. The aquifer appears to behave like it is under water table conditions. Until a test well is drilled it cannot be determined if a well would be water table or artesian at this site. It is not anticipated that drawdown created by pumping will be significant nor cause any adverse effect. Interference is not a concern.

This application was originally contested by Frank Orr, Volin, SD, for drainage reasons. Mr. Orr has withdrawn his objection because Mr. Poeschl has agreed to dig in a rock base that will not obstruct the flow of water for his irrigator to cross the drainage ditch. Mr. Poeschl has also taken out the 24" tube that would have obstructed the flow of water and agreed not to install any tubes on the drainage ditch.

The chief engineer recommended approval of Application No. 6886-3 with the Well Interference Qualification, Well Construction Rule Qualification No. 2, and the Irrigation Water use Questionnaire Qualification.

Jerome Poeschl was administered the oath. In response to a question from Mr. Brink, Mr. Poeschl stated he will be irrigating corn and soybeans. The crops will be rotated every other year.

Motion by Freeman, seconded by Brink, to approve Water Permit Application No. 6886-3, Jerome Poeschl, subject to the qualifications set forth by the chief engineer. Motion carried.

WATER PERMIT APPLICATION NO. 6883-3, LLOYD TERRILL: Jim Goodman presented his report on the application.

The application proposes to appropriate 1.88 cfs (845 gpm) from one well approximately 115 feet deep to irrigate 132 acres in Clark County.

The Altamont aquifer is a predominantly buried outwash (sand and gravel) that is under artesian conditions in this area. In this area the aquifer is called the Altamont 2. The Altamont 2 underlies 630 square miles and contains an estimated 3.2 million acre-feet of water in storage in Clark County. Ground water movement is from west to east across this portion of Clark County. The volume of recharge to the Altamont 2 and 3 aquifers is estimated to be about 54,000 acre-feet annually.

No test well was drilled for this application. There is sufficient information available from the county study, observation wells in the area and other irrigation and domestic wells in this area to evaluate this application. There is a Water Rights observation well CK-76E located within one-half mile to the northwest of this proposed irrigation well.

The Water Rights Program monitors two observation wells completed into the Altamont aquifer within two miles of this site. These are observation well CK-76E (within one-half miles to the northwest) and CK-76I (about two miles to the southwest) all from this proposed well for this application. Hydrographs for these two wells are included with the report. In general, the hydrographs indicate that the aquifer is capable of sustaining additional withdrawals. Water levels can fluctuate 30 to 35 annually in response to pumping.

There are three water permits/rights within two miles of this application. These are Water Right Nos. 1776-3, 3059-3, and Water Permit No. 6385-3. The first two water rights are for irrigation use and the water permit is for a dairy operation. The nearest existing irrigation well is about one-half mile south of this application and is for Water Right No. 1776-3. The well for Water Right No. 3059-3 is about 2,950 feet southwest of this proposed well and the two permitted wells for Water Permit No. 6385-3 are to be located about one mile south of this application. Apparently Water Permit No. 6385-3 has not been developed and will be subject to cancellation in May of 2008. Interference will occur but should not be adverse. Additional drawdown can be expected because of the artesian conditions. However, at this distance between diversions the magnitude of the drawdown is not expected to adversely affect existing wells. This concept is backed up by the observation well record, which indicates some 30 to 35 feet of fluctuation due to pumping under existing conditions.

Mr. Goodman concluded that water is available from the Altamont aquifer. The aquifer is under artesian conditions at this site. Drawdown does occur as a result of pumping and will increase in magnitude. Interference will occur but is not expected to cause adverse effects and should not be a problem. Since no test well was drilled for this application, adequate testing must be completed to determine the best site for a production well.

A petition in opposition to the application was submitted by Jeffrey Sveen, attorney, on behalf of Clark Hutterian Brethren, Inc. After receiving information from DENR, Clark Hutterian Brethren, Inc., withdrew its petition.

The chief engineer recommended approval of Application No. 6883-3 with the Well Interference Qualification, Well Construction Rule Qualification No. 2, and the Irrigation Water Use Questionnaire Qualification.

Lloyd Terrill was administered the oath and testified regarding the background of this application.

Motion by Brink, seconded by Freeman, to approve Water Permit Application No. 6883-3, Lloyd Terrill, subject to the qualifications set forth by the chief engineer. Motion carried.

WATER PERMIT APPLICATION NO. 6894-3, SCOTT AND TAMMY HELMER: Diane Best, Assistant Attorney General, stated that a petition was filed in opposition of this application by Ron Neels, Sherman, SD. Ms. Best noted that Mr. Neels was not present at the hearing.

Ms. Best offered DENR Exhibit 1, James Goodman's Curriculum Vita, and DENR Exhibit 2, the agenda file. The exhibits were accepted into the record.

Jim Goodman presented his report on the application.

Application No. 6894-3 proposes to appropriate 0.333 cfs (150 gpm) from one well approximately 360 feet deep in Minnehaha County for commercial use in a dairy operation.

The Split Rock Creek aquifer is a buried sand, siltstone, claystone and shale of the Split Rock Creek Formation that is under confined or artesian conditions at this site. The Minnehaha County study only maps a very small portion of the Split Rock aquifer in the northeastern portion of the county. In Moody County the aquifer is called the Quartzite Wash and described as composed of uncemented, coarse, well-rounded, well sorted, pink, quartzite sand. In Moody County the aquifer underlies 291 square miles and contains an estimated 2.7 million acre-feet of water in storage. Ground water movement appears to be from northeast to southwest. The Quartzite Wash aquifer system appears to be quite large to the north into Moody County but does not appear to be hydraulically connected very far to the south where it apparently merges with the Split Rock Creek aquifer. That aquifer is also large in Minnehaha County but the portion of the Split Rock Creek mapped in northeastern Minnehaha County does not match with the major portion of the aquifer located in east central Minnehaha County.

For purposes of this report the northeastern mapped unit of the Split Rock Creek aquifer is hydraulically the same as the Quartzite Wash aquifer in Moody County.

The driller's log filed with the application indicates pink sandstone from 292 to 360 feet below land surface. The completed well was capable of producing 200 gpm with a reported drawdown of 85 feet. This is a relatively low yield well in terms of specific capacity (about 2.4 gpm/ft of drawdown) but certainly a good well. The static water level was reported to be 33 feet below land surface.

The Water Rights Program does not monitor any observation wells completed into this aquifer in this area. There is little historical information available concerning water level for this area. The nearest Water Right observation wells are located many miles away from this area and would not be representative of the aquifers at this site. There are three observation wells in the area that were constructed for the Moody and Minnehaha county studies but it is not known what the status of those wells is at this time.

The applicant holds Water Permit No. 6803-3 for water from the shallower source. That permit allows a diversion rate of 0.333 cfs from two wells but completed to depths of 74 and 79 feet. These proposed wells will be in virtually the same area. Interference is not expected to be a problem. The best guess is that the two sources are distinct. Drawdown will occur as a result of pumping and can be evaluated during actual production. There could be domestic wells in the area that obtain water from either potential ground water source. It is not expected that this diversion would adversely affect any existing domestic water user.

Mr. Goodman concluded that water is available from the Split Rock Creek aquifer at this site. The initial testing indicates a low yield well but it should be reliable. The aquifer is under artesian conditions and drawdown will occur. This is not expected to adversely impact the existing wells in the shallow outwash. Interference between the two sources is not expected to be a concern. The well authorized by this application appears to be constructed in accordance with SD Well Construction Standards. The applicant already has a permit No. 6803-3 for 0.333 cfs at this site. This application would double the diversion rate for the dairy facility. The applicant has provided information that indicates that the facility may need this rate of use. Plans and specifications for this facility have been approved by the Department.

The chief engineer recommended approval of Application No. 6894-3 with the Well Interference Qualification, Well Construction Rule Qualification No. 2, and the following qualifications:

1. Permit No. 6894-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-112 for concentrated animal feeding operations.
2. Permit No. 6894-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions

Mr. Goodman addressed some of the concerns raised in Mr. Neels letter of opposition.

Scott Helmer was administered the oath and testified that this application is for the second phase of the dairy. At this time 1,200 cows are being milked. This spring work will begin on another barn and by the fall Mr. Helmer plans to be milking 2,500 cows. Mr. Helmer stated that peak use on a hot day will be 300 gpm at this well.

Pat Emmons, assistant professor in the civil and environmental engineering department at SDSU, was administered the oath and testified he concurs with Mr. Goodman's observations and conclusions. There are two shallow wells on the first permit. An additional well is needed to supply the peak demands for the dairy.

Motion by Freeman, seconded by Bjork, to approve Water Permit Application No. 6894-3, Scott or Tammy Helmer, subject to the qualifications set forth by the chief engineer. Motion carried.

Ms. Best stated that since he did not appear, the intervener has waived the right to findings.

The applicant and DENR waived findings.

Chairman Hutmacher called a lunch recess. The board reconvened at 1:00 p.m.

Jeff Hallem, Assistant Attorney General, reported that on January 23, 2008, a waiver of right to further appeal in the matter of Application No. 1883-1, ProEco Energy. This waiver was filed by Michael Hickey, attorney for the Butte Meade Sanitary District. Based upon the waiver, the department issued the permit to ProEco Energy.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISIONS

Applications in the matter of the Tulare:Hitchcock & Tulare:Western Spink Aquifer: Mr. Hallem stated that he had reviewed the Findings of Fact and Conclusions of Law prepared by Ms. Best. He pointed out that Finding of Fact No. 9 "cfs" should be changed to "inches." No objections or other findings were submitted by the interveners. Mr. Hallem recommended the board adopt the findings with the change in No. 9.

Motion by Bjork, seconded by Freeman, to adopt the Findings of Fact, Conclusions of Law, and Final Decision in the matter of the Tulare:Hitchcock and Tulare:Western Spink Aquifer, including the change in No. 9 from "cfs" to "inches." Motion carried.

Application Nos. 6863-3, 6864-3, and 6866-3, Steven and Roger Masat: Mr. Hallem noted that he reviewed the findings for these applications and made modifications in the numbering in Finding of Fact No. 9 and Conclusion of Law No. 2. He recommended the board adopt the findings.

Motion by Freeman, seconded by Bjork, to adopt the Findings of Fact, Conclusions of Law, and Final Decision in the matter of application Nos. 6863-3, 6864-3, and 6866-3, Steven and Roger Masat, with the changes pointed out by Mr. Hallem. Motion carried.

Water Permit No. 2619-2, Tom Milligan: Mr. Hallem stated that Ms. Best prepared proposed Findings of Fact, Conclusions of Law, and Final Decision. There were no objections or findings submitted by the interveners. Mr. Hallem noted that there was nothing in the record that actually stated the priority date for No. 1257-2. Mr. Hallem recommended striking the reference to the 1975 priority date in Finding of Fact No. 10 and saying that Water Right No. 1257-2 holds a priority date prior to this application. In conclusion of Law No. 7, Mr. Hallem suggested striking

the priority date, striking “a” in front of “three wells” in the first sentence, and making some minor grammar changes to the third sentence from plural to singular.

Motion by Freeman, seconded by Brink, to adopt the Findings of Fact, Conclusions of Law, and Final Decision in the matter of Water Permit No. 2619-2, Tom Milligan, with the changes outlined by Mr. Hallem. Motion carried.

WATER PERMIT APPLICATION NO. 6908-3, HARLAN AMAN: A transcript of this hearing was prepared by the court reporter. The transcript and exhibits are on file at the Department of Environment and Natural Resources, Water Rights Program, in Pierre.

The application proposes to appropriate 2.0 cfs (900 gpm) from one well approximately 110 feet deep to irrigate 160 acres in T126N R71W in McPherson County.

The chief engineer recommended approval with the Well Interference Qualification, Well Construction Rule Qualification No. 2, and the Irrigation Water Use Questionnaire Qualification.

Diane Best, assistant attorney general, represented the Department of Environment and Natural Resources.

John Brown and Margo Northrup, attorneys from Pierre, represented Harlan Aman.

Tom Tobin, attorney from Aberdeen, represented interveners Raymond Groft, Allen Hieb, Delores Hieb, Dale Mohr, and Herbert Groft.

Motion by Brink, seconded by Freeman, to approve Water Permit Application No. 6908-3, Harlan Aman, subject to the qualifications set forth by the chief engineer. Motion carried.

A transcript of the proceedings may be obtained by contacting Capital Reporting Services, PO Box 903, Pierre, SD 57501; telephone number 605-224-7611.

Chairman Hutmacher declared a recess until the following morning.

MARCH 12, 2008

PUBLIC HEARING ON PROPOSED REVISIONS TO ADMINISTRATIVE RULES ON UNDERGROUND INJECTION CONTROL CLASS III WELLS

The Water Management Board convened on Wednesday, March 12, 2008, in the Matthew Training Center, 523 East Capitol, Pierre, SD.

Chairman Jim Hutmacher opened the public hearing at 8:30 a.m. CDT.

The purpose of the hearing was to consider adoption of proposed amendments to ARSD 74:55:01:01 to 74:55:01:61, inclusive.

The effect of the proposed amendments will be to update the requirements an applicant must meet to obtain a state Class III Underground Injection Control Well permit. The updates include

more comprehensive requirements for the permit application, well construction, well mechanical integrity testing, plugging of wells and drill holes, baseline water quality sampling, remedial action, ground water restoration and post-closure activities.

The reason for adopting the proposed rule amendments is for human health and safety, and the protection of the environment, ground water resources, and other natural resources from the impacts of Class III Underground Injection Control mining operations.

Board Members in Attendance: Jim Hutmacher, Francis Brink, Rodney Freeman, Bernita Loucks, and Tim Bjork. Everett Hoyt and Leo Holzbauer were absent.

Others in Attendance: Tim Tollefsrud, Director, Division of Environmental Services; Eric Gronlund, Water Rights Program; Bill Markley, Gary Haag, John Foster, and Tom Brandner, Groundwater Quality Program; Bob Townsend, Mike Cepak and Roberta Fivecoate, Minerals and Mining Program, Jeff Hallem, Assistant Attorney General; George Honeywell, Lower Brule, SD; Charmaine White Face, Bruce Ellison, Corey Foreman, and John Loucks, Rapid City, SD; Mark Hollenbeck, Edgemont, SD; and Joe Kafka, Pierre, SD.

Gary Haag, DENR Groundwater Quality Program, provided the board with a briefing document which included the proposed rules, Mr. Haag's Power Point slides, and written comments received prior to the hearing.

Mr. Haag reported that in 2006 the legislature adopted Senate Bill 62, which authorized the Board of Minerals and Environment to promulgate 74:29:11, In-Situ Leach Mining rules, for the construction, operation, monitoring, and closure of uranium and other in-situ leach mines under the SD Mined Land Reclamation Act (SDCL 45-6B). The Board of Minerals and Environment approved these rules on January 18, 2007.

During the Interim Rules Committee hearing for the rules on April 17, 2007, testimony was presented requesting the Water Management Board be involved in permitting of in-situ leach mines and the Interim Rules Committee agreed with this request. In order for the Water Management Board to properly permit an in-situ leach mine, the Department of Environment and Natural Resources (DENR) determined that the Class III Underground Injection Control Rules needed to be revised.

Class III injection wells are already authorized under the existing state water pollution control laws, SDCL 34A-2, enacted in 1973. The existing rules were promulgated in 1981. No applications for a Class III injection well have been received since the rules were promulgated.

The revised rules are designed to be consistent with the in-situ leach mining rules. By adopting the requirements in the in-situ leach mining rules any existing regulatory gaps in the Class III rules will be addressed. The proposed rules revisions identify the specific requirements an applicant must meet to obtain a permit for and to operate Class III injection wells. Mr. Haag noted that 99% of these proposed rules changes were already approved by the Board of Minerals and Environment.

Mr. Haag discussed the in-situ leach mining process, the minerals that can be extracted using in-situ leach mining, how uranium deposits form, the formation of a uranium "roll front" ore

deposit, and how ground water is restored. He also gave a short presentation on the Crow Butte Process Plant in Crawford, Nebraska, and the advantages and disadvantages of in-situ leach mining.

Mr. Haag reported that notice of the public hearing was published in the following seven newspapers: Black Hills Pioneer on January 14, 2008, Hot Springs Star on January 15, 2008, Brookings Register and Custer County Chronicle on January 16, 2008, Edgemont Herald-Tribune, Pierre Capital Journal, and Rapid City Journal on January 18, 2008. Affidavits of Publication are on file at DENR.

Public notice was also mailed to 197 interested persons and e-mailed to the Nuclear Regulator Commission and U.S. Environmental Protection Agency (EPA) Region VIII. The proposed revisions were also posted on DENR's website.

Written comments were received prior to the hearing from the Legislative Research Council (LRC) regarding form and style and legality. LRC's changes were incorporated into the final version of the rules.

Prior to the hearing written comments were received from Michael Lee Hood, Madison, IA, via U.S. Mail, and from Nancy Hilding, Prairie Hills Audubon Society and EPA via e-mail. Haag presented a summary of the comments received from Nancy Hilding and EPA. He also provided DENR's response to the comments.

Mr. Haag discussed the Nuclear Regulatory Commission in-situ leach mining ground water restoration standards. He also provided information on the ground water restoration standards for the states of Nebraska and Wyoming.

Mr. Haag then presented the department's proposed amendments to Chapter 74:55:01, Underground Injection Control – Class III Wells. In addition to the department's original proposed amendments, Mr. Haag also provided a handout with proposed revised definitions to 74:55:01:01 (10), (13), (22), (28), (34), and (41).

During the hearing written comments were submitted by Michael B. Jandreau, Chairman of the Lower Brule Sioux Tribe, and Charmaine White Face, Defenders of the Black Hills.

Following Mr. Haag's presentation, Chairman Hutmacher requested public comments.

The following offered public comments and proposed changes to the rules:

Mark Hollenbeck, Powertech (USA), Edgemont, SD
George Honeywell, Lower Brule Sioux Tribe, Lower Brule, SD
Bruce Ellison, attorney from Rapid City, SD
Charmaine White Face, Defenders of the Black Hills, Rapid City, SD

After public comments were received, board discussion took place and it was decided that the hearing would be continued to April 2 and 3, 2008, in Rapid City for further comment and review, and to allow the Department staff time to respond to board questions and comments received during the hearing.

The board requested that they be provided with an educational presentation on the in-situ leach mining process prior to the start of the hearing on April 2.

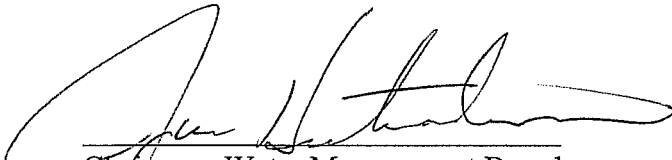
Motion by Bjork, seconded by Brink, to recess the hearing until 8:30 a.m. MDT on April 2, 2008, in Rapid City. Motion carried.

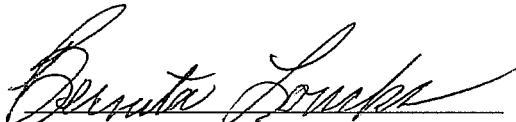
ADJOURN: Chairman Hutmacher declared the meeting adjourned.

A court reporter was present on the first day of the meeting and a transcript of the proceedings may be obtained by contacting Capital Reporting Services, PO Box 903, Pierre, SD 57501; telephone number 605-224-7611.

The entire meeting was digitally recorded and a copy of the recording may be obtained by contacting the Department of Environment and Natural Resources, 523 East Capitol Avenue, Pierre, SD 57501; telephone number 605-773-3886.

Approved this 7th day of May, 2008.



Chairman, Water Management Board

Secretary, Water Management Board

Unopposed New Water Permit Applications Issued Based on the Chief Engineer Recommendations

Qualifications:
wi - well interference
wcr - well construction rules
iq - irrigation questionnaire
lf - low flow

No.	Name	Address	County	Amount	Use	Source	Qualifications
1889-1	Vergil Stacy	Vale	BU	2.0 cfs	57.37 acres	Belle Fourche River	lf, iq, 1 special
1891-1	City of Faith	Faith	MD	0.333 cfs	municipal	1 well-Inyan Kara Aquifer	wi, wcr, 1 special
1892-1	Prima Exploration Inc.	Denver CO	HR	0.33 cfs	industrial	1 well-Inyan Kara Aquifer	wi
1893-1	Viewfield Rural Water Assoc.	New Underwood	MD	0.29 cfs	rws	1 well-Inyan Kara Aquifer	wi, wcr, 1 special
1894-1	Smitty LLC	Sturgis	MD	0.067 cfs	shd	1 well-Inyan Kara Aquifer	wi
2622-2	Owanka Rural Water Assoc.	Owanka	PE	0.667 cfs	rws	1 well-Inyan Kara Aquifer	wi, wcr, 1 special
6880-3	Pheasant Crest Lodge, Inc.	Kimball	JE	4.0 cfs	280 acres	1 well-Crow Creek Aquifer	wcr, iq, 1 special
6902-3	David Ruppelt	Tyndall	BH	1.00 cfs	70 acres	1 well-Choteau:Tyndall	wi, wcr, iq
6903-3	David Ruppelt	Tyndall	BH	1.56 cfs	137 acres	1 well-Choteau:Tyndall	wi, iq
6910-3	Woodlawn Cemetery	Sioux Falls	MA	0.44 cfs	80 acres	2 wells-Sioux Quartzite	wi, wcr, iq
6913-3	Murphy Farms Partnership	Eden Prairie MN	CD	80 AF	rec,fwp,live	runoff	lf, 1 special
6914-3	Hartman & Pahl Farms	Pierre	SU	1.33 cfs	73 acres	Missouri River	iq, 1 special
6915-3	Karl Schenk	Mission Hill	YA	1.78 cfs	70 acres	1 well-Lower James:Missouri	wi, wcr, iq, 1 special
6916-3	Karl Schenk	Mission Hill	YA	1.78 cfs	70 acres	1 well-Missouri:Elk Point	wi, wcr, iq, 1 special
6917-3	Karl Schenk	Mission Hill	YA	1.78 cfs	140 acres	1 well-Lower James:Missouri	wi, wcr, iq
6918-3	Karl Schenk	Mission Hill	YA	1.33 cfs	55 acres	1 well-Missouri:Elk Point	wi, wcr, iq, 1 special
6919-3	John & Jacqueline Smith	Yankton	YA	2.0 cfs	327 acres	1 well-Lower James:Missouri	wi, wcr, iq
6920-3	Ernest Namminga	Springfield	BH	2.22 cfs	160 acres	1 well-Choteau West Aquifer	wi, wcr, iq
6921-3	Randy, Valerie,Doris Svendsen	Volin	YA	2.22 cfs	152 acres	1 well-Lower James:Missouri	wi, wcr, iq, 1 special
6922-3	Paul Shubeck	Beresford	CL	1.78 cfs	122.3 acres	1 well-Upper Vermillion:Miss	wi, wcr, iq, 1 special
6923-2	Karl Schenk	Mission Hill	CL	1.56 cfs	206 acres	1 well-Missouri:Elk Point	wi, wcr, iq
6924-3	Lincoln Co. RWS, Inc.	Harrisburg	LN	1,344 AF	rws	5 wells-Big Sioux:South	wi, wcr, 2 special
6925-3	Tschetter Colony	Olivet	HT	0.167 cfs	commercial	1 well-Lower James:Missouri	wi, 2 special
6926-3	Chuck Donnelly	Elk Point	UN	1.89 cfs	160 acres	1 well-Missouri:Elk Point	wi, wcr, iq
6927-3	Lynell Hoffer	Freeman	HT	no add'l	40 acres	1 well-Lower James:Missouri	wi, iq
6928-3	Marvin Post	Volga	BG	1.78 cfs	180 acres	2 wells-Big Sioux:Brookings	wi, wcr, iq
6929-3	Marvin Post	Volga	BG	1.78 cfs	160 acres	1 well-Big Sioux:Brookings	wi, wcr, iq
6930-3	Marvin Post	Volga	BG	1.78 cfs	160 acres	1 well-Big Sioux:Brookings	wi, wcr, iq
6934-3	Don A Johnson	Windom MN	YA	1.56 cfs	245 acres	1 well-Missouri:Elk Point	wi, wcr, iq
6936-3	Jack Wellnitz	Yale	BD	2.0 cfs	240 acres	2 wells-Floyd:East James	wi, wcr, iq
6937-3	Dean R Morman	Volin	YA	1.78 cfs	135 acres	1 well-Lower James:Missouri	wi, wcr, iq

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6938-3	Dean R Morman	Volin	YA	1.78 cfs	140 acres	1 well-Lower James:Missouri	wi, wcr, iq
6939-3	Tom & John Yaggie	Mission Hill	YA	2.22 cfs	198 acres	1 well-Missouri:Elk Point	wi, wcr, iq
6940-3	Ken Less	Merrill IA	CL	1.11 cfs	52 acres	1 well-Missouri:Elk Point	wi, wcr, iq, 1 special
6941-3	Ken Less	Merrill IA	CL	no add'l	146 acres	1 well-Missouri:Elk Point	wi, wcr, iq
6942-3	Craig L Johnson	Volin	YA	4.44 cfs	315 acres	1 well-Lower James:Missouri	wi, wcr, iq
6946-3	Brett Guthmiller	Menno	HT	1.89 cfs	133 acres	1 well-Lower James:Missouri	wi, wcr, iq

Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
1508-2	South Central Water Development District	Armour	GY	45,000 AF	mun, rws & rec	Missouri River	none
5094-3	Sioux Rural Water System	Watertown	HM	390 AF	rws	Big Sioux:Brookings Aquifer	none
6237-3	City of Vermillion	Vermillion	CL	1,900 AF	municipal	Missouri:Elk Point Aquifer	none